

Mr. Speaker, we have to act responsibly on this bill. I would encourage Members to resist amendments, even though they may be "tougher," but in the long run what they will undo is our system of justice.

Mr. QUILLEN. Mr. Speaker, I urge the adoption of the rule; and I yield back the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments, in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 971. An act to require the Federal Communications Commission to prescribe rules to protect consumers from unfair practice in the provision of operator services, and for other purposes; and

H.R. 5313. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5313) "An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SASSER, Mr. INOYE, Mr. REID, Mr. FOWLER, Mr. BYRD, Mr. GRASSLEY, Mr. GARN, Mr. STEVENS, and Mr. HATFIELD, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 147. Concurrent resolution supporting the actions taken by the President with respect to Iraqi aggression against Kuwait.

TELEPHONE OPERATOR CONSUMER SERVICES IMPROVEMENT ACT OF 1990

Mr. MARKEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 971) to require the Federal Communications Commission to prescribe rules to protect consumers from unfair practices in the provision of operator services, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment:
Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telephone Operator Consumer Services Improvement Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the divestiture of AT&T and decisions allowing open entry for competitors in the telephone marketplace produced a variety of new services and many new providers of existing telephone services;

(2) the growth of competition in the telecommunications market makes it essential to ensure that safeguards are in place to assure fairness for consumers and service providers alike;

(3) a variety of providers of operator services now compete to win contracts to provide operator services to hotels, hospitals, airports, and other aggregators of telephone business from consumers;

(4) the mere existence of a variety of service providers in the operator services marketplace is significant in making that market competitive only when consumers are able to make informed choices from among those services providers;

(5) however, often consumers have no choices in selecting a provider of operator services, and often attempts by consumers to reach their preferred long distance carrier by using a telephone billing card, credit card, or prearranged access code number are blocked;

(6) a number of State regulatory authorities have taken action to protect consumers using intrastate operator services;

(7) from January 1988 through February 1990, the Federal Communications Commission received over 4,000 complaints from consumers about operator services;

(8) those consumers have complained that they are denied access to the interexchange carrier of their choice, that they are deceived about the identity of the company providing operator services for their calls and the rates being charged, that they lack information on what they can do to complain about unfair treatment by an operator service provider, and that they are, accordingly, being deprived of the free choice essential to the operation of a competitive market;

(9) The Commission has testified that its actions have been insufficient to correct the problems in the operator services industry to date; and

(10) a combination of industry self-regulation and government regulation is required to ensure that competitive operator services are provided in a fair and reasonable manner.

SEC. 3. AMENDMENT.

Title II of the Communications Act of 1934 is amended by inserting immediately after section 225 (47 U.S.C. 225) the following new section:

"SEC. 224. TELEPHONE OPERATOR SERVICES.

"(a) DEFINITIONS.—As used in this section—

"(1) The term 'access code' means a sequence of numbers that, when dialed, connect the caller to the provider of operator services associated with that sequence.

"(2) The term 'aggregator' means any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for interstate telephone calls using a provider of operator services.

"(3) The term 'call splashing' means the transfer of a telephone call from one provider of operator services to another such provider in such a manner that the subsequent

provider is unable or unwilling to determine the location of the origination of the call and, because of such inability or unwillingness, is prevented from billing the call on the basis of such location.

"(4) The term 'consumer' means a person initiating any interstate telephone call using operator services.

"(5) The term 'equal access' has the meaning given that term in Appendix B of the Modification of Final Judgment entered August 24, 1982, in United States v. Western Electric, Civil Action No. 82-0192 (United States District Court, District of Columbia), as amended by the Court in its orders issued prior to the enactment of this section.

"(6) The term 'equal access code' means an access code that allows the public to obtain an equal access connection to the carrier associated with that code.

"(7) The term 'operator services' means any interstate telecommunications service initiated from an aggregator located that includes, as a component, any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an interstate telephone call through a method other than—

"(A) automatic completion with billing to the telephone from which the call originated; or

"(B) completion through an access code used by the consumer, with billing to an account previously established with the carrier by the consumer.

"(8) The term 'presubscribed provider of operator services' means the interstate provider of operator services to which the consumer is connected when the consumer places a call using a provider of operator services without dialing an access code.

"(9) The term 'provider of operator services' means any common carrier that provides operator services or any other person determined by the Commission to be providing operator services.

"(6) REQUIREMENTS FOR PROVIDERS OF OPERATOR SERVICES.—

"(1) IN GENERAL.—Beginning not later than 30 days after the date of enactment of this section, each provider of operator services shall, at a minimum—

"(A) identify itself, audibly and distinctly, to the consumer at the beginning of each telephone call and before the consumer incurs any charge for the call;

"(B) permit the consumer to terminate the telephone call at no charge before the call is connected;

"(C) disclose immediately to the consumer, upon request and at no charge to the consumer—

"(i) a quote of its rates or charges for the call;

"(ii) the methods by which such rates or charges will be collected; and

"(iii) the methods by which complaints concerning such rates, charges, or collection practices will be resolved;

"(D) ensure, by contract or tariff, that each aggregator for which such provider is the presubscribed provider of operator services is in compliance with the requirements of subsection (c) and, if applicable, subsection (e)(1);

"(E) withhold payment (on a location-by-location basis) of any compensation, including commissions, to aggregators if such provider reasonably believes that the aggregator (i) is blocking access by means of "950" or "800" numbers to interstate common carriers in violation of subsection (c)(1)(B) or (ii) is blocking access to equal access codes in violation of rules the Commission may prescribe under subsection (e)(1);

"(F) not bill for unanswered telephone calls in areas where equal access is available;

"(G) not knowingly bill for unanswered telephone calls where equal access is not available;

"(H) not engage in call splashing, unless the consumer requests to be transferred to another provider of operator services, the consumer is informed prior to incurring any charges that the rates for the call may not reflect the rates from the actual originating location of the call, and the consumer then consents to be transferred;

"(I) except as provided in subparagraph (H), not bill for a call that does not reflect the location of the origination of the call; and

"(J) not bill an interexchange telephone call to a billing card number which—

"(i) is issued by another provider of operator services; and

"(ii) permits the identification of the other provider,

unless the call is billed at a rate not greater than the other provider's rate for the call, the consumer requests a special service that is not available under tariff from the other provider, or the consumer expressly consents to a rate greater than the other provider's rate.

"(2) ADDITIONAL REQUIREMENTS FOR FIRST 3 YEARS.—In addition to meeting the requirements of paragraph (1), during the 3-year period beginning on the date that is 30 days after the date of enactment of this section, each presubscribed provider of operator services shall identify itself audibly and distinctly to the consumer, not only as required in paragraph (1)(A), but also for a second time before connecting the call and before the consumer incurs any charge.

"(c) REQUIREMENTS FOR AGGREGATORS.—

"(1) IN GENERAL.—Each aggregator, beginning not later than 30 days after the date of enactment of this section, shall—

"(A) post on or near the telephone instrument, in plain view of consumers—

"(i) the name, address, and toll-free telephone number of the provider of operator services;

"(ii) a written disclosure that the rates for all operator-assisted calls are available on request, and that consumers have a right to obtain access to the interstate common carrier of their choice and may contact their preferred interstate common carriers for information on accessing that carrier's service using that telephone; and

"(iii) the name and address of the enforcement division of the Common Carrier Bureau of the Commission, to which the consumer may direct complaints regarding operator services; and

"(B) ensure that each of its telephones presubscribed to a provider of operator services allows the consumer to use "800" and "950" access code numbers to obtain access to the provider of operator services desired by the consumer; and

"(C) ensure that no charge by the aggregator to the consumer for using an "800" or "950" access code number, or any other access code number, is greater than the amount the aggregator charges for calls placed using the presubscribed provider of operator services.

"(3) EFFECT OF STATE LAW OR REGULATION.—The requirements of paragraph (1)(A) shall not apply to an aggregator in any case in which State law or State regulation requires the aggregator to take actions that are substantially the same as those required in paragraph (1)(A).

"(d) GENERAL RULEMAKING REQUIRED.—

"(1) RULEMAKING PROCEEDING.—The Commission shall conduct a rulemaking proceeding pursuant to this title to prescribe regulations to—

"(A) protect consumers from unfair and deceptive practices relating to their use of

operator services to place interstate telephone calls; and

"(B) ensure that consumers have the opportunity to make informed choices in making such calls.

"(2) DEADLINES.—The Commission shall initiate the proceeding required under paragraph (1) within 60 days after the date of enactment of this section and shall prescribe regulations pursuant to the proceeding not later than 210 days after such date of enactment. Such regulations shall take effect not later than 45 days after the date the regulations are prescribed.

"(3) CONTENTS OF REGULATIONS.—The regulations prescribed under this section shall—

"(A) contain provisions to implement each of the requirements of this section, other than the requirements established by the rulemaking under subsection (e) on access and compensation; and

"(B) contain such other provisions as the Commission determines necessary to carry out this section and the purposes and policies of this section.

"(4) ADDITIONAL REQUIREMENTS TO BE IMPLEMENTED BY REGULATIONS.—The regulations prescribed under this section, shall, at a minimum—

"(A) establish minimum standards for providers of operator services to use in the routing and handling of emergency telephone calls; and

"(B) establish a policy for requiring providers of operator services to make public information about recent changes in operator services and choices available to consumers in that market.

"(e) SEPARATE RULEMAKING ON ACCESS AND COMPENSATION.—

"(1) ACCESS.—The Commission, within 9 months after the date of enactment of this section, shall require—

"(A) that each aggregator ensure within a reasonable time that each of its telephones presubscribed to a provider of operator services allows the consumer to obtain access to the provider of operator services desired by the consumer through the use of an equal access code; or

"(B) that all providers of operator services, within a reasonable time, make available to their customers a "950" or "800" access code number for use in making operator services calls from anywhere in the United States; or

"(C) that the requirements described under both subparagraphs (A) and (B) apply.

"(2) COMPENSATION.—The Commission shall consider the need to prescribe compensation (other than advance payment by consumers) for owners of competitive public pay telephones for calls routed to providers of operator services that are other than the presubscribed provider of operator services for such telephones. Within 9 months after the date of enactment of this section, the Commission shall reach a final decision on whether to prescribe such compensation.

"(f) TECHNOLOGICAL CAPABILITY OF EQUIPMENT.—Any equipment and software manufactured or imported more than 18 months after the date of enactment of this section and installed by any aggregator shall be technologically capable of providing consumers with access to interstate providers of operator services through the use of equal access codes.

"(g) FRAUD.—In any proceeding to carry out the provisions of this section, the Commission shall require such actions or measures as are necessary to ensure that aggregators are not exposed to undue risk of fraud.

"(h) DETERMINATIONS OF RATE COMPLIANCE.—

"(1) FILING OF INFORMATIONAL TARIFF.—

"(A) IN GENERAL.—Each provider of operator services shall file, within 30 days after the date of enactment of this section, and shall maintain, update regularly, and keep open for public inspection, an informational tariff specifying rates, terms, and conditions, and including commissions, surcharges, any fees which are collected from consumers, and reasonable estimates of the amount of traffic priced at each rate, with respect to calls for which operator services are provided. Any changes in such rates, terms, or conditions shall be filed no later than the first day on which the changed rates, terms, or conditions are in effect.

"(B) WAIVER AUTHORITY.—The Commission may, after 4 years following the date of enactment of this section, waive the requirements of this paragraph only if—

"(i) the findings and conclusions of the Commission in the final report issued under paragraph (3)(B)(iii) state that the regulatory objectives specified in subsection (d)(1)(A) and (B) and have been achieved; and

"(ii) the Commission determines that such waiver will not adversely affect the continued achievement of such regulatory objectives.

"(2) REVIEW OF INFORMATIONAL TARIFFS.—If the rates and charges filed by any provider of operator services under paragraph (1) appear upon review by the Commission to be unjust or unreasonable, the Commission may require such provider of operator services to do either or both of the following:

"(A) demonstrate that its rates and charges are just and reasonable; and

"(B) announce that its rates are available on request at the beginning of each call.

"(3) PROCEEDING REQUIRED.—

"(A) IN GENERAL.—Within 60 days after the date of enactment of this section, the Commission shall initiate a proceeding to determine whether the regulatory objectives specified in subsection (d)(1)(A) and (B) are being achieved. The proceeding shall—

"(i) monitor operator service rates;

"(ii) determine the extent to which offerings made by providers of operator services are improvements, in terms of service quality, price, innovation, and other factors, over those available before the entry of new providers of operator services into the market;

"(iii) report on (in the aggregate and by individual provider) operator service rates, incidence of service complaints, and service offerings;

"(iv) consider the effect that commissions and surcharges, billing and validation costs, and other costs of doing business have on the overall rates charged to consumers; and

"(v) monitor compliance with the provisions of this section, including the periodic placement of telephone calls from aggregator locations.

"(B) REPORTS.—(i) The Commission shall, during the pendency of such proceeding and not later than 5 months after its commencement, provide the Congress with an interim report on the Commission's activities and progress to date.

"(ii) Not later than 11 months after the commencement of such proceeding, the Commission shall report to the Congress on its interim findings as a result of the proceeding.

"(iii) Not later than 23 months after the commencement of such proceeding, the Commission shall submit a final report to the Congress on its findings and conclusions.

"(4) IMPLEMENTING REGULATIONS.—

"(A) IN GENERAL.—Unless the Commission makes the determination described in subparagraph (B), the Commission shall,

within 180 days after submission of the report required under paragraph (3)(B)(iii), complete a rulemaking proceeding pursuant to this title to establish regulations for implementing the requirements of this title (and paragraphs (1) and (2) of this subsection) that rates and charges for operator services be just and reasonable. Such regulations shall include limitations on the amount of commissions or any other compensation given to aggregators by providers of operator service.

"(B) LIMITATION.—The requirement of subparagraph (A) shall not apply if, on the basis of the proceeding under paragraph (3)(A), the Commission makes (and includes in the report required by paragraph (3)(B)(iii)) a factual determination that market forces are securing rates and charges that are just and reasonable, as evidenced by rate levels, costs, complaints, service quality, and other relevant factors.

"(I) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to alter the obligations, powers, or duties of common carriers or the Commission under the other sections of this Act."

Mr. MARKEY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. Brown of California). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Massachusetts [Mr. MARKEY]?

Mr. RINALDO. Mr. Speaker, reserving the right to object, I do so in order to yield to the gentleman from Massachusetts [Mr. MARKEY], the distinguished chairman of the Subcommittee on Telecommunications and Finance, for the purpose of explaining H.R. 971 and the Senate amendment thereto.

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding.

The Senate amendment to H.R. 971 represents a compromise between H.R. 971, which passed the House on September 25, 1989, and S. 1660 as it was passed by the other body. The differences between the two bills are minimal and in most regards are technical drafting changes. The most significant change in the legislation is that it now establishes specific statutory requirements for operator service providers and "aggregators," hotels and other intuitions who make telephones available to the public, rather than initiating an FCC rulemaking procedure to impose the same requirements as H.R. 971. In addition, to ensure that the FCC has the full administrative authority embodied in the Communications Act, the legislation is redrafted as an amendment to title II of the Communications Act of 1934.

There has been a litany of consumer complaints about overcharges and unacceptable business practices in the operator services industry. This bill will ensure that consumers are protected from the unfair prices and practices of the fast-buck artists without

jeopardizing the legitimate business interests of many in this infant industry.

Since the breakup of AT&T, new and unregulated companies, have entered the marketplace to provide service. In many cases, the new providers have charged their customers substantially higher prices—sometimes as much as 400 percent more than AT&T.

Alternative operator services, or [AOS] providers, are new companies that lease telephone lines from major carriers, such as AT&T and MCI, and then utilize those lines to sell "Dial O" services to businesses and institutions such as airports, hospitals, and universities. This legislation is a comprehensive package which addresses the abuses that have occurred in some segments of the operator services industry.

This legislation will ensure that those who use public telephones have unblocked access to the long-distance carrier of their choice and adequate information for making informed decisions regarding those carriers. In addition to unblocking access and providing adequate information, the compromise contained in H.R. 971 addresses and combats the excessive rates charged by some less-scrupulous operator service providers.

Under the legislation, the FCC must review the rates filed by each operator service provider and if they appear unjust or unreasonable, require that the operator service provider either justify its rates or announce the availability of its rates to the consumer at the beginning of each call. In addition, if the FCC finds after a full proceeding, that an operator service provider's rates are unjust and unreasonable, it must then regulate the operator service companies' rates including imposing limits on the compensation paid by operator service companies to hotels and pay phones.

This legislation provides the FCC with the full administrative authority necessary to correct the unprincipled elements in the operator services industry. Ultimately, it will create lower prices in a truly competitive marketplace.

Mr. Speaker, this bill is the result of a bipartisan effort on the part of committee members to ensure that we move forward to prevent these unfair and unresolved abuses in the industry. The gentleman from New Jersey [Mr. RINALDO], the ranking minority member of our subcommittee has made it possible for us to construct a bill that will adequately resolve this issue, one which has become increasingly onerous to consumers.

I would like to commend the gentleman from Tennessee [Mr. COOPER] for his leadership in introducing this legislation and for bringing national attention to this issue. I would also like to applaud the constructive efforts of the gentlemen from Texas, Mr. BRYANT and Mr. FIELDS and other subcommit-

tee colleagues who have worked diligently in drafting this legislation.

Mr. RINALDO. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MARKEY]. I strongly support the legislation.

Mr. Speaker, I yield to the gentleman from Tennessee [Mr. COOPER].

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Mr. COOPER. I would just like to thank the chairman of the subcommittee, the gentleman from Massachusetts [Mr. MARKEY], and the ranking member, the gentleman from New Jersey [Mr. RINALDO], for their outstanding leadership and hard work on this measure. I feel that as a result of this legislation we will be able to protect countless consumers across this country who have been upset and frustrated with the way the public pay telephones and telephones in hotel rooms have been sometimes taken over by unscrupulous alternative operator service operators.

So I thank the gentleman for their hard work.

Mr. RINALDO. I thank the gentleman for his contribution.

Further reserving the right to object, I yield to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. I thank the gentleman for yielding. I would just like to say that this is the bill of the gentleman from Tennessee [Mr. COOPER]. He initiated it. He was the driving force, and he deserves the compliments that attach to passage of a successful piece of legislation, as this is.

Mr. RINALDO. Further reserving the right to object, Mr. Speaker, I just want to acknowledge what the gentleman is saying. All of us worked hard, the gentleman from Massachusetts, the gentleman from Tennessee, and myself. I feel that it is a good piece of legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. Brown of California). Is there objection to the initial request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

COMPREHENSIVE CRIME CONTROL ACT OF 1990

The SPEAKER pro tempore. Pursuant to House Resolution 490 and rule XXIII, the Chair declares the House